

## Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-03

INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02

CIEP-01 LAB-04 SIL-01 OMB-01 NSC-05 SS-15 STR-04

CEA-01 L-03 H-02 IO-11 /094 W  
----- 019780

R 151555Z MAR 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 9315

INFO USUN NEW YORK 724

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FOR EB-BOEKER: L-SELDMAN: TREAS-LANGE: COMMERCE-ARRIL:  
CIEP: GRANFIELD.

FROM RUBIN

EO 11652: NA

TAGS: OCON, EFIN, ECOSOC

SUBJECT: COMMISSION ON TRANSNATIONAL CORPORATIONS

1. FINAL SESSION COMMISSION ON TRANSNATIONAL CORPORATIONS  
ENDED 10:30 P.M.; MARCH 12 WITH ADOPTION REPORT CONSISTING  
MAINLY THREE PARTS: TENTATIVE AGENDA FOR NEXT SESSION;  
CHAPTER I (CONCLUSIONS AND RECOMMENDATIONS); AND CHAPTER II  
(REPORT). BELIEVE IN GENERAL THAT RESULTS SATISFACTORY AND  
ALL MAIN OBJECTIVES US ACHIEVED.

2. AGENDA CAUSED MAJOR CONSUMPTION OF TIME DURING MORNING  
SESSION AS RESULT OF SOVIET ATTEMPT MODIFY ITEM ENTITLED  
"WORK RELATED TO FORMULATION OF A CODE OF CONDUCT" TO ADD  
WORDS "FOR TNCS." SUBSTANTIVE IMPLICATIONS THIS SUGGESTION  
CLEARLY POINTED OUT AND AFTER MUCH TIME SOVIET AMENDMENT DE-  
FEATED. HOWEVER, TIEM ENTITLED "CORRUPT PRACTICES" WAS  
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AMENDED, PER UN RESOLUTION, TO ADD "OF TINC." ITEM ON

"DISCLOSURE" ALSO ADDED TO DRAFT AGENDA. OTHERWISE AGENDA IS NORMAL, INCLUDING CONSIDERATION OF STUDIES OF EFFECT OF TNCs. TECHNICAL COOPERATION, INTERNATIONAL STANDARDS OF ACCOUNTING AND REPORTING, COMPREHENSIVE INFORMATION SYSTEM, WORK LEADING TO DEFINITION OF TNC, AND DRAFT AGENDA FOR NEXT SESSION.

3. IN CHAPTER I PROVISION ADDED TO REQUEST ECOSOC TO CHANGE DATE OF 3D SESSION. THIS DONE IN VIEW OF WORK PROGRAM WHICH CALLS FOR WORKING GROUP TO MEET AFTER VIEWS AND PROPOSALS OF GOVERNMENTS RE CODE ARE RECEIVED AND AFTER CENTER HAS PREPARED ANNOTATED DOCUMENT ON THIS SUBJECT. TIME AVAILABLE OBVIOUSLY WILL REQUIRE SOME POSTPONEMENT FROM ANTICIPATED JANUARY 1977 DATE.

4. RE CHAPTER I (CONCLUSIONS) FOLLOWING SHOULD BE NOTED:  
A) OUR PROPOSAL RE CORRUPT PRACTICES, AMENDED BY AGREEMENT IN CONFORMIT DEPARTMENT'S INSTRUCTION TO CALL FOR ESTABLISHMENT OF WORKING GROUP BY ECOSOC COMPOSED OF GOVERNMENTAL REPRESENTATIVE AND LOOKING TOWARD DRAFT OF INTERNATIONAL AGREEMENT INCLUDED AS ANNEX TO REPORT. IT WAS EMPHASIZED THROUGHOUT THAT WE ANTICIPATE DRAFTING OF AN EFFECTIVE INTERNATIONAL AGREEMENT.

B) IN PARA. 10 OF CH. I REQUEST FOR ECOSOC SET NEW DATES INCLUDED.

C) IN PARA. 11, DRAFT AMENDED TO STATE THAT "VIEWS OR PROPOSALS" OF GOVERNMENTS RECODE SHOULD BE CALLED FOR RATHER THAN MERELY "PROPOSALS." THIS DONE THROUGHOUT, ON BASIS EMPHASIS USDEL THAT FLEXIBILITY NEEDS TO BE PRE-SERVED AND SCOPE FOR DISCUSSION, RATHER THAN MERELY RECEIVING SET DRAFT PROPOSALS OF GOVERNMENTS.

D) IN PARA. 15(II) PHRASE RE "ACTION-ORIENTED PAPER" MAINTAINED. IDEA IS THAT CENTER MIGHT MAKE SUGGESTIONS AS TO FURTHER WORK PROGRAMS, ETC., RATHER THAN MERELY REPORT WITHOUT RECOMMENDATIONS.

D) IN PARA. 22(B), WHICH CALLS FOR "COLLECTION OF LIMITED OFFICIAL USE

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PUBLICLY AVAILABLE INFORMATION" "PUBLICLY-AVAILABLE" HAVING BEEN INSERTED RESULT OF HARD NEGOTIATIONS) PHRASE RE RESTRICTIVE BUSINESS PRACTICES AMENDED ON REQUEST HAPANESE TO STRIKE OUT REFERENCE TO UNCTAD.

F) MAJOR BATTLE, INVOLVING HEATED EXCHANGE BETWEEN US AND USSR DELEGATIONS, POSTPONEMENT OF COMMISSION SESSION FOR AN HOUR TO PERMIT DISCUSSIONS, ETC., WAS OVER IN-

CLUSION OR NOT OF PHRASE FROM PREVIOUS REPORT, THERE INCLUDED IN BRACKETS, REFERRING TO "EFFECT ON OPERATIONS OF TNCs OF PRESENCE OR ABSENCE OF STABLE INVESTMENT CLIMATE." PARA. 22(B) (XIII) NOW IS "TRENDS IN INVESTMENT BY TRANS-NATIONAL CORPORATIONS." ARGUED THAT US HAD GIVEN UP IN INFORMAL NEGOTIATIONS INSISTENCE "CLIMATE" PROVISIO EVEN IN BRACKETS IN EXCHANGE FOR INCLUSION OF "TRENDS IN INVESTMENT" ITEM AS AGREED PART OF WORK PROGRAM. ALL DELEGATIONS INDICATED DESIRE SEND WORK PROGRAM TO ECOSOC WITHOUT BRACKETED ITEMS. US URGED STRONGLY BY OTHER, AS WEST GERMANS, TO AGREE TO SOME TYPE OF NOTATION IN CHAPTER II AND NOT INSIST ON INVESTMENT CLIMATE ITEM. AFTER LENGTHY DISCUSSIONS, AND IN CONSULTATIONS WITH MEMBERS OF DELEGATION, WITH MOST IN AGREEMENT BUT SOME DISSENT, I AGREED ACCEPT DELETION CLIMATE ITEM, MAINTENANCE TRENDS IN INVESTMENT ITEM, WITH AGREED STATEMENT IN CHAPTER II THAT COMMISSION AGREED THAT TRENDS ITEM COULD INCLUDE STUDY INCENTIVES AND OPPORTUNITIES FOR INVESTMENT AND THAT "A FEW" DELEGATIONS FELT THAT THIS IMPLIED STUDY OF INVESTMENT CLIMATE. I ALSO STATED AT PLENARY THAT THIS IN NO WAY IMPLIED ABANDONMENT OR ALTERATION OF US POSITION RE APPLICATION OF CODE TO GOVERNMENTS AS WELL AS TNCs, WHICH STATEMENT SET OFF WAVE OF RESPONSES THAT THIS WAS NOT UNDERSTANDING OF OTHERS. AT END, ON ADVISE OF SECRETARIAT, I SUGGESTED THAT NONE OF THESE REMARKS NEED BE REFLECTED IN CHAPTER II, SINCE CENTER STATED THAT THEY INTENDED STUDY ALONG OUR LINES AND WOULD BE INHIBITED IF MAJORITY VIEWS WERE REFLECTED IN REPORT. MY OPINION IS THAT WE ARE MUCH BETTER OFF UNDER PRESENT CIRCUMSTANCES. THE BRACKETED LANGUAGE REPRESENTED NOTHING OTHER THAN OUR OWN VIEW, WAS CLEARLY NOT AGREED AND UNDER THOSE CIRCUMSTANCES COULD NOT BE INCLUDED IN WORK PROGRAM. ITS SUBSTANCE HAS BEEN REFLECTED IN NUMEROUS INTERVENTIONS AND IS LIMITED OFFICIAL USE

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IN REPORT ELSEWHERE IN OTHER WORDS. WE NOW HAVE AN AGREED AGENDA ITEM WHICH WILL PERMIT EXAMINATION OF GOVERNMENTAL POLICIES WHICH ARE CLEARLY INHERENT IN ANY RATIONAL STUDY OF INCENTIVES (IMPLYING ALSO STUDY OF DISINCENTIVES), AND THAT IS CENTER'S INTERPRETATION. IN ANY CASE, THIS WAS SITUATION OF US AGAINST ENTIRETY OF COMMISSION, WITH IMPATIENCE ALL BEING CLEARLY EVIDENT.

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G) IN "CORRUPT PRACTICES" SECTION AT END, WHICH STATES COMMISSION DECISION TO FORWARD OUR PROPOSAL TO ECOSOC, I ADDED "AND A PLAN OF ACTION" TO WORDING RE PROPOSAL SUBMITTED BY US.

5. RE CHAPTER II (REPORT):

A) IN PARA 12, REFERRING TO WORK OF UNCTAD ON CODE FOR TRANSFER OF TECHNOLOGY WE ADDED REFERENCE TO WORK IN OTHER INTERNATIONAL ORGANIZATIONS AS WELL, THOUGH WORDING IMPLIES WORK ON SUCH CODES RE TECHNOLOGY RATHER THAN CODES GENERALLY. I FELT WE COULD NOT GET AWAY WITH MORE GENERAL REFERENCE IN THAT PARA. REFERENCE TO WORK OTHER ORGANIZATIONS IS SPREAD THROUGH REPORT IN DISCUSSION MANNER OF WORK OF CENTER.

B) CENTER HAD ASKED ACQUISITION COMPUTER FACILITIES. THIS OPPOSED BY USSR ON GROUND FINANCIAL IMPLICATIONS. UK ALSO STRESSED, PARTIALLY IN THIS CONNECTION, NEED AVOID DUPLICATION OF EFFORT. LANGUAGE REFLECTS SUGGESTION CENTER EXPLORE AVAILABILITY OTHER COMPUTER FACILITIES. I AND OTHERS HAVE TOLD SAHLGREN THAT FINANCIAL IMPLICATION  
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HERE, AND IN OTHER ASPECTS OF WORK PROGRAM, WILL HAVE TO BE HANDLED LATER IN OTHER FORUMS. I HAVE ALSO TOLD

SAHLGREN THAT I REACTED UNFAVORABLY TO HIS INFORMAL STATEMENT TO COMMISSION THAT HE ANTICIPATED VAST EXPANSION OF CENTER STAFF. HIS ANSWER IS THAT HE WILL MERELY TRY TO PRESENT STAFFING PATTERN RESPONSIVE TO WORK ASSIGNED TO CENTER BY COMMISSION, AND THEN WILL BE IN HANDS BUDGET PEOPLE. I HAVE ALSO INDICATED IN COMMISSION AND INFORMALLY THAT WE ARE GIVING CENTER TOO MANY TASKS AND LEAVING NO TIME IN COMMISSION SESSIONS TO READ AND DISCUSS THE EXCELLENT AND VOLUMINOUS REPORTS BEING PRODUCED BY THE CENTER, AND THAT RESTRAINT IN ASSIGNMENT TOPICS FOR RESEARCH, ETC., IS ESSENTIAL.

C) IN PARA. 19 WE HAVE ADDED IN CONNECTION WITH "SOCIAL IMPACT" REFERENCE TO "CONSUMER PROTECTION." OTHER ADDED REFERENCE TO RESPECT FOR SOCIAL AND CULTURAL PATTERNS OF HOST COUNTRIES.

D) IN CODE DISCUSSIONS, REFERENCES ADDED IN CH. II TO DIVISION OF OPINION RE MANDATORY OR VOLUNTARY NATURE OF CODE, TO AGREEMENT THAT WHATEVER ITS NATURE SUCH CODE SHOULD BE "EFFECTIVE" AND, ON BASIS SWEDISH INTERVENTION, TO POSSIBLE NEED SOME SORT OF SUPERVISORY APPARATUS WHATEVER MIGHT BE NATURE OF CODE. REFERENCE ALSO MADE (ARGENTINE SUGGESTION) THAT SOME MEMBERS CONCERNED THAT CENTER MIGHT BE WORKING MORE ON PRIVATE INVESTMENT MATTERS THAN ON ACTIVITIES OF TNCS. REFERENCE ALSO ADDED IN PARA. 11 TO REGIONAL MEETINGS (PER PREVIOUS UN RESOLUTION) AND TO REQUEST BY ECOSOC TO CENTER TO ASSIST IN SUCH MEETINGS FOR BENEFIT DEVELOPMENT COUNTRIES. REFERENCE ALSO INSERTED SPECIFICALLY TO VIEW SOME DELEGATIONS THAT CODE SHOULD BE ADDRESSED TO GOVERNMENTS AS WELL AS TNCS.

E) RE CORRUPT PRACTICES DISCUSSION (PARA. 27) REFERENCE ADDED TO VIEW US DELEGATION THAT AGREEMENT SHOULD BE DIRECTED TO THOSE WHO RECEIVE AS WELL AS THOSE WHO GIVE BRIBES, ETC.

6. ATTEMPT TO CHANGE REFERENCE IN CH. I PARA 28 TO MEASURES TO STRENGTHEN COMPETITIVE POSITION NATIONAL LIMITED OFFICIAL USE

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ENTERPRISES DEFERRED ON GROUND THAT THAT WAS VERY PURPOSE OF OMISSION. THIS LANGUAGE AGREED AT FIRST SESSION SO DIFFICULT CHANGE HERE.

7. STATEMENT RE CH. I PARA (IX) - SOUTH AFRICA ETC. READ IN PLENARY PER INSTRUCTIONS.

8. SESSION ALSO SUGGESTED EXTRA SESSION WITH EMPHASIS ON NONPRECEDENTIAL NATURE TO SELECT PERSONS MENTIONED

IN RESOLUTION 1913 REPRESENTATIVE OF BUSINESS, LABOR, PUBLIC INTEREST GROUPS, ETC. FELT THAT SUCH COULD BE ONE HOUR SESSION IN NEW YORK LATER THIS YEAR.

9. MY FEELING IS THAT SESSION WENT FAIRLY WELL ESPECIALLY IN VIEW DISORGANIZED WORK METHODS, ETC. SOME SPIRIT OF ACCOMMODATION CLEAR. ALSO, INITIATIVE HERE SEEMS TO HAVE PASSED FROM LATIN AMERICANS LED BY FIGUERERO TO OTHERS LED BY FASLA (ALGERIA). I FEEL THAT IF COMMISSION IS TO DO ANY USEFUL WORK ITS METHODS WILL HAVE TO BE RE-ORGANIZED TO GIVE TIME FOR CONSIDERATION OF REPORTS BY "EXPERT GOVERNMENT REPRESENTATIVES" WHICH RES. 1913 STATES SHOULD BE DESIGNATED BY GOVERNMENTS. ALSO, I FEEL THAT THE BASIC ISSUES HAVE NOT ONLY NOW BEEN POSTPONED TO NEXT TWO SESSIONS, BUT THAT THE WORK PROGRAM MAKES SURE THAT THEY WILL EMERGE CLEARLY - AS FOR EXAMPLE, APPLICATION OF CODE TO GOVERNMENTS. ON THIS, THERE WILL BE A CLEAR AND INSISTENT MAJORITY IN OPPOSITION, AND WE OUGHT FACE NOW QUESTION OF HOW WE PROPOSE TO DEAL WITH THAT SITUATION. SOME METHOD OF PRIOR INFORMAL CONSULTATION WITH SUCH LEADERS AS FASLA, BHATT OF INDIA, MEXICANS ETC., WOULD BE IN MY OPINION USEFUL. WE OUGHT ALSO TAKE INTO ACCOUNT DESIRABILITY PRIOR CONSULTATION WITH HOME OFFICES ESPECIALLY RE ANY NEW INITIATIVES OF US, SINCE WE LOST MUCH VALUABLE TIME (AND I BELIEVE SOME GOOD WILL) RE OUR CORRUPT PRACTICES INITIATIVE BECAUSE WEOS AS WELL AS OTHERS FELT THAT THE INITIATIVE WAS "SPRUNG ON THEM" AND THEY HAD NO INSTRUCTIONS. (WE DID GET BELATED SUPPORT FOR OUR PROCEDURAL PROPOSALS AS WELL AS GENERAL APPROACH FROM ITALIANS AND CANADIANS.) FINALLY, CONSIDERATION OUGHT BE GIVEN SOON AS TO STATEMENT OF VIEWS TO BE PRESENTED BY US TO CENTER IN ANTICIPATION OF LIMITED OFFICIAL USE

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WORKING GROUP ON CODE.

10. CORRIDOR RUMOR THAT ZAIRE WILL INVITE NEXT SESSION ON COMMISSION. MY HOPE, SHARED BY MOST, IS THAT SESSION CAN BE MAINTAINED AT UN IN NEW YORK.  
DEAN

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## Message Attributes

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